

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

ALAN LANE HICKS,

Petitioner,

v.

CIVIL ACTION NO. 3:21-0618

DONNIE AMES, Superintendent,

Defendant.

**MEMORANDUM OPINION AND ORDER**

This action was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted Findings of Fact and recommended that the Court deny Petitioner's Motion for Temporary Restraining Order/Preliminary Injunction with Supporting Memorandum of Law (ECF No. 7), deny Respondent's Motion to Dismiss Under Rule 12(b)(6) for Untimeliness (ECF No. 18) and refer this matter back to the Magistrate Judge for further proceedings. No objections to the Magistrate Judge's findings and recommendation have been filed.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **DENIES** Petitioner's Motion for Temporary Restraining Order/Preliminary Injunction with Supporting Memorandum of Law (ECF No. 7), **DENIES** Respondent's Motion to Dismiss Under Rule 12(b)(6) for Untimeliness (ECF No. 18) and **REFERS** this matter back to Magistrate Judge Aboulhosn for further proceedings, consistent with the findings and recommendation.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: May 24, 2022

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE